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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JAMES J. YOUNG, III,
Plaintiff

v.

PALEX, INC.,
Defendant

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) CIVIL ACTION
) NO. 99-11228-REK
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Memorandum and Order
May 2, 2000

I.

Pending for decision is Defendant's Motion to Implead Sea Watch International, Ltd. as Third Party Defendant (Docket No. 21, filed April 21, 2000) with Memorandum of Law in Support (Docket No. 22) and Third-Party Complaint Against Sea Watch (Docket No. 23). Plaintiff has filed Plaintiff's Opposition (Docket No. 24, filed April 20, 2000).

II.


At the scheduling conference of September 24, 1999, the parties proposed and the court approved a scheduling order under which all motions to amend the pleadings or to join additional parties or claims under any applicable rule shall be made before December 1999. Defendant fails to allege any basis for a contention that it was not inexcusably late in filing the

pending motion (Docket No. 21). This is the second time Defendant has failed to explain its tardiness in responding to motions, the disposition of which is left to the sound discretion of the district court. See Docket No. 18 (Memorandum and Order issued March 3, 2000). Plaintiff asserts that allowing Defendant's Motion to Implead at this late date would inevitably result in delay and prejudice from the delay of the trial date. I conclude that the likelihood of unfair prejudice overrides the principle of liberality about amendment of pleadings. For these reasons, Defendant's Motion to Implead Sea Watch International, Ltd. will be denied in the Order that follows below.

ORDER

For the foregoing reasons, it is ORDERED:

- (1) Defendant's Motion to Implead Sea Watch International, Ltd. as Third Party Defendant (Docket No. 21, filed April 21, 2000) is DENIED.
- (2) ADR proceedings before Judge Mazzone may proceed.
- (3) Final Pretrial Conference is set for 2:30 p.m., June 13, 2000. Jury trial is set for 9:00 a.m., June 19, 2000.



United States District Judge